

## DECLARATION, POWER OF ATTORNEY AND PETITION

We, Peter Pal VARGA, M.D. and James A. OGILVIE, M.D., declare: that we are citizens of Hungary and the United States of America, respectively; that our residences and post office addresses are 1126 Budapest, Kiralyhago utca 1-3, Hungary, and 717 Coventry Lane, Edina, Minnesota 55435, respectively; that we verily believe we are the original, first, and joint inventors of the subject matter of the invention or discovery entitled INTERVERTEBRAL SPACER, for which a patent is sought and which is described and claimed in the specification filed on June 12, 2000, and having an application serial no. 09/592,072; that we have reviewed and understand the contents of the above-identified specification, including the claims; and that we acknowledge the duty to disclose information which is material to the examination of this application in accordance with Section 1.56(a) of Title 37 of the Code of Federal Regulations.

We declare further that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful, false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful, false statements may jeopardize the validity of the application or any patent issuing thereon.

We hereby appoint as our attorneys and/or patent agents, Grant R. Clayton, Registration No. 32,462, Alan J. Howarth, Registration No. 36,553, Karl R. Cannon, Registration No. 36,468, and Bretton L. Crockett, Registration No. 44,632, all with full power of substitution and revocation, to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith.

Please direct all future correspondence in connection with this application to:

Customer No. 20,449

Please direct all telephonic and facsimile communications to:

Karl R. Cannon  
Telephone: (801)255-5335  
Facsimile: (801) 256-2043

Please reference the below provided attorney docket number in all communications:

T9376

Wherefore, we pray that Letters Patent be granted to us for the invention or discovery described and claimed in the foregoing specification and claims, declaration, power of attorney, and this petition.

Signed at Budapest, Hungary, this  
(City) (Country)

11<sup>th</sup> day of December, 2000.

INVENTOR:

Peter Pal Varga  
Peter Pal VARGA, M.D.

Signed at Minneapolis, MN, this  
(City) (State)

29 day of July, 2000.

INVENTOR:

James W. Ogilvie  
James A. OGILVIE, M.D.

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Attorney Docket No. T9376.DIV2

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: PETER PAL VARGA et al. )  
TITLE: METHOD OF IMPLANTING )  
AN INTERVERTEBRAL )  
SPACER )  
SERIAL NO.: \_\_\_\_\_ )  
FILED: January 22, 2002 )  
EXAMINER: \_\_\_\_\_ )  
ART UNIT: \_\_\_\_\_ )

CERTIFICATE UNDER 37  
C.F.R. § 3.73(b) TO  
ESTABLISH RIGHT OF  
ASSIGNEE TO TAKE ACTION

Commissioner for Patents  
Washington, D.C. 20231


Sir:

In order to establish its right to take action before the Office in the above-captioned matter, Ortho Development Corporation certifies that it is the assignee of the entire right, title and interest in the patent application identified above and attached hereto by virtue of either:

A.[X] An assignment from the inventors of the patent application identified above. The assignment was recorded in the Patent and Trademark Office at Reel

## CERTIFICATE OF EXPRESS MAILING

DATE OF MAILING January 22, 2002 EXPRESS MAIL LABEL NO: ET243162726US  
I hereby certify that this paper for fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service on the date indicated above and is addressed to: Box Patent Application, Commissioner for Patents, Washington D.C. 20231

  
Karl R. Cannon  
Attorney Registration No. 36,468  
Attorney for Applicant